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Attorneys for Defendants  
COINBASE, INC., BRIAN ARMSTRONG  
and DAVID FARMER

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

JEFFREY BERK, et al.,

Plaintiffs,

vs.

COINBASE, INC., et al.,

Defendants.

Case No.: 18-cv-01364-VC

**JOINT CASE MANAGEMENT  
STATEMENT**

Date: August 21, 2019

Time: 10:00 a.m.

Judge: Hon. Vince Chhabria

Ctrm: 4, 17<sup>th</sup> Floor

The parties jointly submit this Subsequent Case Management Statement in advance of the upcoming August 21, 2019 Case Management Conference. The parties have previously submitted a full Joint Case Management Statement, *see* Dkt. 28, as well as a supplemental Second Joint Case Management Statement, *see* Dkt. 69. Pursuant to Local Rule 16-10(d), the parties will focus this statement only on “progress or changes since the last statement was filed” and “proposals for the remainder of the case development process.”

**1. Amendment of Pleadings**

Plaintiffs do not presently intend to amend the operative complaint. Defendant Coinbase will file an answer by September 3, 2019, subject to the parties’ stipulation, filed August 9, 2019 (ECF No. 76).

Because the Court’s August 2019 Order dismissed with prejudice all counts that had been pled against Brian Armstrong and David Farmer (Counts III-VIII, *see* Second Amended Class Action Complaint (ECF No. 51) at 43–50), the parties agree that Messrs. Armstrong and Farmer are not currently parties to this case and accordingly are not required to file any answer or other response to the Second Amended Class Action Complaint.

Plaintiffs state that they reserve the right to seek leave to amend and plead additional claims against Armstrong and Farmer at a later date. Defendants reserve all rights to oppose any such amendment.

Additionally, Coinbase’s position is that, pursuant to the Court’s August 2019 Order, the claims asserted by Plaintiffs Preetham Periaswami and Niko Younts have been dismissed. Accordingly, Coinbase does not believe that its needs to respond to allegations that solely pertain to claims asserted by Periaswami and Younts.

**2. Discovery**

**A. Plaintiffs’ Position**

Plaintiffs served a set of requests for production of documents (the “First RFPs”) and interrogatories (the “First Interrogatories”) on Defendants on May 10, 2018, and a second set of requests for production of documents (the “Second RFPs”), and interrogatories (the “Second Interrogatories”) on October 24, 2018. Defendants have responded and made limited document

productions. The parties have exchanged extensive correspondence concerning the adequacy of Defendants' responses to Plaintiffs' discovery requests and have engaged in at least one extensive telephonic meet and confer. Although the parties have agreed upon certain compromises, Plaintiffs believe that certain responsive documents remain outstanding. Plaintiffs intend to serve further discovery, particularly in light of the Court's ruling on August 6, 2019 ruling and the expiration of any stay of discovery (if in fact, there was such a stay). If the parties cannot resolve any outstanding issues, the parties will file a joint letter brief in accordance with the Court's Standing Order for Civil Cases ("Standing Order"). Moreover, Plaintiffs do not believe that the Action should be stayed pending the recently filed appeal. The Action has been pending for over seventeen months, and little discovery has taken place during that time. At a minimum, discovery should proceed during the pendency of the appeal.

**B. Defendants' Position**

Defendants went to significant lengths to provide early discovery to Plaintiffs—including responses to no fewer than 27 RFPs and 12 interrogatories—even before Plaintiffs' theory of the case was clear or the pleadings settled. Coinbase will evaluate Plaintiffs' further discovery when it is received and respond accordingly. As set forth below, however, Coinbase has filed a motion to stay proceedings before this Court pending resolution of its appeal to the Ninth Circuit of the order denying Defendants' motion to compel arbitration.

**3. Class Actions**

The parties address the issue of how and when a class will be certified in the Schedule below.

**4. Settlement and ADR**

The parties remain willing to discuss potential mediation or other forms of ADR.

**5. Scheduling**

**A. Plaintiffs' Position**

Plaintiffs' proposed schedule is attached hereto as Appendix A, and is similar to one earlier proposed but extended by the 10 months—[Dkt. No. 40], to reflect the time spent on the

last round of motions. Plaintiffs do not agree that Defendants' requested stay of these proceedings are warranted and note that the action has been pending for over 17 months with little discovery. Plaintiffs believe that the Action should proceed regardless of Defendants' appeal, discussed below.

**B. Defendants' Position**

On August 12, 2019, Coinbase, Armstrong, and Farmer filed a Notice of Appeal of the Court's denial of defendants' motion to compel arbitration (ECF No. 77) and moved to stay this case pending that appeal (ECF No. 78). Coinbase set the motion to stay hearing on the first available calendar date on which Plaintiffs' counsel initially said they were available—October 17, 2019.<sup>1</sup> Coinbase does not wish to delay resolution of this motion and asks that the parties discuss whether it would be possible to advance the hearing at the case management conference when all parties and the Court can consult their calendars to determine if an earlier date is possible.<sup>2</sup>

To the extent it is not possible to advance the hearing on Coinbase's motion to stay earlier than October, the parties have conferred and agreed that the hearing should be re-set for October 10, 2019. Further, Plaintiffs have requested a modification of the briefing schedule on the motion to stay in order to accommodate prior conflicts and other obligations for Plaintiffs' counsel. To the extent the hearing date is not advanced, Coinbase is willing to accommodate this request, and agrees that Plaintiffs' opposition can be filed by September 12, 2019, with Coinbase's reply due on September 26, 2019. If this schedule is agreeable to the Court, the parties can provide a stipulation and proposed order after the case management conference.

As to the overall case schedule, Coinbase believes it is premature to set a trial date, discovery deadlines, or further motion dates until its motion to stay is resolved. But should the

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<sup>1</sup> As set forth below, Plaintiffs' counsel has since informed defense counsel that they are available on October 10, 2019.

<sup>2</sup> Plaintiffs' counsel has informed Coinbase that they have a prior court appearance before the Hon. Beth Labson Freeman on September 26, 2019. They have further indicated that they are unable to brief the motion prior to mid September, 2019 given their commitments in that case.

Court require dates to be set at this time, Defendants' proposed case schedule os attached hereto as Appendix B.

DATED: August 14, 2019

**GREEN & NOBLIN, P.C.**

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DATED: August 14, 2019

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COINBASE, INC., BRIAN ARMSTRONG  
And DAVID FARMER

**ATTESTATION**

I hereby attest that I have obtained concurrence in the filing of this document from each of the other persons whose signatures are indicated by a conformed signature (/S/) within this e-filed document.

DATED: August 14, 2019

/s/ Robert S. Green

Robert S. Green

**APPENDIX A: PLAINTIFFS' PROPOSED SCHEDULE**

| <b>Event</b>   | <b>Date/Deadline</b>                     |
|--|--|
| Deadline to Amend Pleadings  | August 22, 2019                          |
| Merits Experts: Opening Reports  | April 6, 2020                            |
| Rebuttal Reports   | May 4, 2020                              |
| Merits Expert Discovery Completed by   | May 25, 2020                             |
| Fact Discovery Cutoff  | June 15, 2020                            |
| Deadline to File Dispositive Motions   | June 22, 2020                            |
| Deadline to File Oppositions to Dispositive Motions                                  | July 13, 2020                            |
| Deadline to File Replies ISO Dispositive Motions                                     | July 27, 2020                            |
| <b>Hearing on Dispositive Motions</b>  | <b>August 13, 2020 at 10 a.m.</b>        |
| Deadline to File Class Cert. Motion  | August 24, 2020                          |
| Deadline to File Opposition to Class Cert. Motion                                    | September 14, 2020                       |
| Class Cert. Expert Discovery Cutoff<br>Deadline to File Reply ISO Class Cert. Motion | September 28, 2020                       |
| <b>Hearing on Class Certification Motion</b>   | <b>October 8, 2020 at 10 a.m.</b>        |
| <b>Pretrial Conference</b>   | <b>January 18, 2021<br/>at 1:30 p.m.</b> |
| <b>Trial</b>   | <b>February 16, 2021</b>                 |

**APPENDIX B: DEFENDANTS' PROPOSED SCHEDULE**

| <b>Event</b>  | <b>Date/Deadline</b>            |
|---|---------------------------------|
| Deadline to Amend Pleadings   | August 20, 2019                 |
| All Fact Discovery Completed by   | June 1, 2020                    |
| Experts: Opening reports on issues on which party bears the burden of proof | June 15, 2020                   |
| Experts: Rebuttal Reports   | July 15, 2020                   |
| All Expert Discovery Completed by   | August 7, 2020                  |
| Deadline to File Class Cert. Motion   | August 31, 2020                 |
| Deadline to File Opposition to Class Cert. Motion                           | September 24, 2020              |
| Deadline to File Reply ISO Class Cert. Motion                               | October 8, 2020                 |
| <b>Hearing on Class Certification Motion</b>                                | <b>October 22, 2020 at 10am</b> |
| Deadline to File Dispositive Motions  | November 24, 2020               |
| Deadline to File Oppositions to Dispositive Motions                         | December 21, 2020               |
| Deadline to File Replies ISO Dispositive Motions                            | January 14, 2021                |
| <b>Hearing on Dispositive Motions</b>                                       | <b>January 28, 2021 at 10am</b> |
| <u>Joint Pretrial Conference Statement</u>                                  | <u>April 26, 2020</u>           |
| <b>Pretrial Conference</b>  | <b>May 24, 2021 at 1:30pm</b>   |
| <b>Trial</b>  | <b>June 21, 2021</b>            |